

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No.: 20-MJ-1001

JOSHUA GUTIERREZ,

Defendant.

MOTION TO EXTEND GRAND JURY PRESENTMENT

Defendant Joshua Gutierrez, by and through his attorney, Sylvia A. Baiz, Assistant Federal Public Defender, respectfully moves this Court for a sixty (60) day continuance of the grand jury deadline. As grounds for this motion, the Defendant states:

1. Joshua Gutierrez was arrested on March 30, 2020 and charged with Murder in violation of 18 U.S.C. § 1111(a) and § 1153.

2. Counsel for Defendant and the government believe that fruitful negotiations in this matter can be pursued prior to an Indictment. Such negotiations may result in a more favorable resolution of this case than may be available post-indictment. Moreover, such a pre-indictment resolution would conserve both prosecutorial and judicial resources. *See United States v. Hernandez-Mejia*, 406. Fed.App'x. 330, 338 (10th Cir. 2011) ("The Speedy Trial Act, 18 U.S.C. §

3161(h)(7), was intended not only to protect the interests of defendants, but was also ‘designed with the public interest in mind.’”)(quoting *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009)).

3. Counsel has been unable to conduct her own investigation on the Navajo reservation due to the current pandemic. Counsel also needs to review discovery with Mr. Gutierrez, which has been difficult to do so with the visit restrictions at the jails. Counsel recently underwent a shoulder replacement surgery and she has been out of the office on medical leave, which has also made the above tasks difficult to complete.

4. Counsel discussed this waiver with Mr. Gutierrez and explained to him that he has the right to waive the 30-day limit and seek additional time. Mr. Gutierrez understands his right to have a grand jury consider evidence against him within 30 days of his arrest. Mr. Gutierrez also understands that by waiving his right to a 30-day presentation to the grand jury he could potentially receive the benefit of a more favorable resolution of this matter.

5. This is Mr. Gutierrez’s third request to extend the time to present his case to the grand jury.

6. This Motion is not predicated upon the congestion of the Court’s docket.

7. Assistant United States Attorneys Allison Jaros does not oppose this Motion to Extend Grand Jury Presentence for sixty (60) days.

WHEREFORE, Defendant respectfully requests this Court enter an Order continuing the time limit for filing an Indictment or Information. The Defendant requests that this waiver be valid for an additional period of 60 days, until October 30, 2020.

Respectfully submitted,

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/s/ Electronically filed 7/24/20
SYLVIA A. BAIZ, AFPD
Attorney for Joshua Gutierrez